



## IMPORTANT NOTICE

TO: Telephone and Telegraph Filers  
FROM: Marilyn H. Browne, Chief, Bureau of Local Assessment  
COPY: Boards of Assessors  
DATE: March 18, 2008  
TOPIC: **FURTHER SUPPLEMENTAL DATA REQUIRED FOR FY2009 FILING**

---

On March 13, 2008, the Appellate Tax Board (ATB) issued its Decision and Findings of Fact and Report in the MCI Consolidated Central Valuation Appeals Cases: Boston and Newton, Docket No. C269462. The Findings of Fact and Report, which may be found at the ATB website at <http://www.mass.gov/atb>, in part states:

1. *“the Board finds and rules here that ‘all tangible personal property’ [subject to central valuation to a telephone company] includes telephone company property that is construction work in progress or is owned but not necessarily ‘in service.’”*

The FY2009 Form 5941, Part 3, in the explanation of the property subject to taxation and reporting specifically provides that:

Property constructed and in service is taxable. ... Cable without lit fiber (aka dark fiber or dark cable) is not taxable. Construction work in progress (CWIP) is not taxable.

This instruction reflected the position of the Department of Revenue prior to the ATB’s decision that only the telephone system assets in service are subject to central valuation. The ATB disagreed with this position and has made the specific finding and ruling quoted above.

The Board further found that:

2. *“accounting concepts [such as fresh start and asset impairment write-downs] are not germane to ad valorem property tax assessment and central valuation of the telephone companies under § 39 because the concept of central valuation here requires that all companies report an original cost that has a common basis.”*

That portion of the ATB’s decision reinforces the practice of the Department of Revenue requiring the reporting of original cost. The FY2009 Form 5941, Part 4 instructs filers how to list taxable personal property and states that original cost:

...does not include allocations or accounting entries made as a result of a merger, takeover acquisition or bankruptcy.

The Department will implement the ruling regarding construction work and other personal property owned but not necessarily in service effective for the fiscal year 2009 filings. Also, every company’s data, whether reported in its initial filing or a supplemental filing of Form 5941, must reflect original

Post Office Box 9569 Boston, MA 02114-9569, Tel: 617-626-2300; Fax: 617-626-2330

cost. Therefore, every centrally valued telecommunication company (whether landline or wireless) must forthwith separately report no later than **April 4, 2008** any and all of its construction work in progress, unlit or dark fiber and dark cable not in service as of January 1, 2008 and property still in place but retired from service as of January 1, 2008 at its original cost. Please submit the data on *Form 5941* in the *List of Taxable Telephone and Telegraph Personal Property (T & T)* in the required format and categories of property and specify that the additional Form 5941 is a supplemental report of property not yet in service or retired from service as of January 1, 2008. Please also specify whether this property had already been included in the company's original filing for fiscal year 2009.

In addition, any company that has reported property using an accounting procedure that does not reflect original cost of the equipment must resubmit its original Form 5941 for fiscal year 2009 using the required original cost format. Any such filing must be entitled "Amended Form 5941 – Original Cost" and shall be separate from the Supplemental Filing announced in this notice and the [letter of March 3, 2008](#) concerning the reporting of poles and wires on public ways.

If you have any questions, please contact me at 617-626-2334 or by e-mail at [bladata@dor.state.ma.us](mailto:bladata@dor.state.ma.us).